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I am writing regarding the proposed changes to MCR 7.212. It is my opinion that this proposed changes to this rule are a bad idea.

First of all, the proposed changes will not ease the biggest bottle-neck in the delivery of appellate decisions. The longest period of time in the appellate process takes place after all briefs are filed, and before oral argument is scheduled. In my experience, there is typically a year and one half delay between the filing of the appellant's reply brief, and the holding of oral argument. Shortening the briefing period will do nothing to shorten that stretch of time.

On the other hand, if the goal is to reduce the number of appeals by making that process more difficult and expensive for the average litigant, then perhaps the court is on to something! Why not reduce the period to 1 day? Then, no one will appeal, and the back log will disappear! While we are at it, why not eliminate access to the trial courts as well, and give litigants automatic weapons, rather than lawyers, to resolve their disputes? America will be a less litigious society, and that's good, right?

Secondly, the shorter briefing period and loss of automatic extension will have a negative impact on the ability of appellate practitioners to do their job. In the real world, most attorneys handle more than one case at a time, and therefore face numerous deadlines that overlap, or are concurrent. The reduction of the briefing period by 12 days, and the elimination of the automatic extension will greatly decrease the calendar's flexibility, and greatly increase the difficulty a practitioner will have in meeting these deadlines.

Thirdly, the shorter briefing period will reduce the quality of advocacy. A shorter period of time will make it more difficult for a party to adequately research the issues, to interact with colleagues regarding the issues, to have others review drafts, and to solicit amicus curiae, where appropriate. Under the "garbage in -- garbage out" principle, the quality of the appellate courts' decisions will invariably suffer.

Finally, while raising the hurdles for appellate review might reduce the caseload for the appellate courts by making it more onerous and expensive for a party to appeal, the quality of justice will suffer. The quality and uniformity of decisions at the trial level will suffer where there is less appellate guidance and fewer corrections of errors. Ultimately, this proposed rule will continue the current trend of increasing the power of the lower courts, and administrative agencies, at the expense of the individual, because there will be less oversight and accountability of the lower courts.

Our democracy depends on the appellate courts to protect our constitutional, and due process rights. As every practitioner knows, substantive rights become meaningless if they are rendered unenforceable by onerous procedural requirements.

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